Remarks

Claims 1-3, 5, 7, 9-26, 28, and 30-34 are pending in this application. The examiner has rejected claims 1, 14, 21, and 22 as being invalid under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,618,818 to Wahl et al. The examiner has rejected claims 2, 3, 5, 7, 10-13, 15-20, 23-26, 28, and 31-34 on the ground that these claims are obvious under 35 U.S.C. § 103 in view of the combination of Wahl and U.S. Patent No. 6,609,213 to Nguyen et al. The examiner has rejected claims 9 and 30 on the ground that these claims are obvious under 35 U.S.C. § 103 in view of the combination of Wahl, Nguyen and U.S. Patent No. 5,623,762 to Popat.

A.   Wahl Does Not Anticipate

Wahl does not anticipate any of rejected claims 1, 14, 21, or 22. First, the subject matter of wall is not related to the subject matter of the claims of the pending applications. Wahl is directed to a method for the remote mirroring of data over a network. (Abstract; col. 2, lines 56-59). In contrast, claims 1, 14, 21, and 22 are directed to a storage area network and methods for operating a network to correlate the function of the storage controllers and servers of the network. Elements of claims 1, 14, 21, and 22 are simply not present in Wahl.

Importantly, claims 1, 14, 21, and 22 requires that the execution throttle levels of the servers of the network be correlated with the command queue depth of the storage controllers of the network. As a result, the claims specify that an operational parameter one device of the network is correlated with an operational parameter of another device of the network. This function is not suggested or disclosed by Wahl. With reference to claims 1, 14, 21, and 22, each specifies a relationship between the execution throttle level of at least one server of the network and the command queue depth of at least one storage controller of the network:

Claim 1:

verifying that a rule governing the command throughput of the servers and storage controllers of the network is satisfied, the rule defining a *relation between* the execution throttle levels of the servers of the network *and* the command queue depth of the storage controllers of the network; and

adjusting the execution throttle level of at least one server of the network in response to a determination that the rule was not satisfied.

Claim 14:

wherein the execution throttle level of each server is set such that the execution throttle of each server is *correlated to* the command queue depth of each storage controller.

Claim 21:

determining, for each storage controller, whether the summed execution throttle level *exceeds* the command queue depth of the storage controller; and

if the summed execution throttle level exceeds the command queue depth, adjusting the execution throttle level of one or more of the servers of the storage area network.

Claim 22:

verifying that a rule governing the command throughput of the servers and storage controllers accessed by the servers is satisfied, the rule defining, for each storage controller, a *relation between* the independent execution throttle levels of the servers associated with the storage controller *and* the command queue depth of the storage controller; and

adjusting the independent execution throttle level of at least one server in response to a determination that the rule was not satisfied.

(Emphasis added). From a plain reading of the independent claims, it is apparent that the operational status of the servers is compared with and adjusted on the basis of the operational status of the storage controllers of the network. This feature of the claims is not disclosed in Wahl.

The examiner points to language in Wahl at column 3, lines 25-50 and column 16, lines 45-64 as including disclosure related to the management of the operating conditions of the servers and storage controllers of the network. The passage at column 16, lines 45-64 does speak of the ability to adjust some of the performance characteristics of the system defined in Wahl. What this passage does not disclose is the correlation of one performance characteristic of the network of Wahl to another performance characteristic of the network of Wahl.

Most importantly, Wahl does not in any manner disclose or suggest the correlation of an execution throttle level of a server to the command queue depth of a storage controller of the network. First, there is no disclosure in Wahl of a method for adjusting the execution throttle level of a server. Second, there is no disclosure in Wahl of a method for adjusting the command queue depth of a storage controller. The terms "command queue depth" and "storage controller" are not even present in Wahl. Third, there is no disclosure in Wahl of a technique for correlating these two operational characteristics.

Although Wahl does use the term "throttle," the throttle of Wahl is a limit that is applied on the basis of a predefined integer value, and *not* on the basis of an operational parameter of another device of the network. The establishment of a throttle of Wahl is described in Wahl in column 15, line 58 through column 16, line 17. As explained in this passage, after the user selects the parameter, the use next selects a logic operator. After the selection of a logic operator, "the user enters an integer value into the "Value" field for comparison to the actual system component usage." (col. 16, lines 14-16). Thus, the operational parameter of Wahl is compared to an integer and not to another operational parameter of the network.

Because Wahl does not disclose each element of claims 1, 14, 21, and 22, a rejection of these claims on anticipation grounds is improper. "A claim is not anticipated only if

each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631 (Fed. Cir 1987). "The identical invention must be shown in complete detail as is contained in the . . . claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1336 (Fed. Cir 1989). With respect to claims 1, 14, 21, and 22 of the present application, each and every element of claims 1, 14, 21, and 22 is not found in Wahl. Specifically, Wahl does not disclose or suggest a network in which the execution throttle settings of the servers of the network are compared against the command queue depth settings of the storage controllers of the network. Because the invention of claims 1, 14, 21, and 22 is not disclosed in Wahl, the rejection of these claims should be withdrawn, and the claims should be passed to issuance.

C.   **Nguyen Cannot Serve as a Basis for a Rejection Under Section 103**

Claims 2, 3, 5, 7, 9-13, 15-20, 23-26, 28, and 30-34 have been rejected as being obvious over some combination of Wahl and Nguyen. Nguyen, however, cannot serve as the basis for a rejection under Section 103.

Subject matter that is prior art for a rejection under 35 U.S.C. § 103 via 35 U.S.C. § 102(e) is disqualified as prior art if the subject matter and the claimed invention "were, at the time the claimed invention was made, owned by the same person or subject to an obligation of assignment to the same person." 35 U.S.C. § 103(c). Here, at the time that the invention of the present application was made, the present application and Nguyen and the present invention were owned by or subject to an obligation of assignment to Dell Products L.P. Nguyen is assigned to Dell Products, L.P. Attached as Exhibit A is the Notice of Recordation of Assignment document for the present application, indicating that the present application is assigned to Dell Products L.P. Nguyen and the pending application were, at the time the invention of the pending

application was made, owned or subject to an obligation to Dell Products L.P. Because an obviousness rejection cannot be made on the basis of Nguyen, rejection of these dependent claims on obviousness grounds should be withdrawn.

Applicants respectfully submit that the rejections of claims 2, 3, 5, 7, 9-13, 15-20, 23-26, 28, and 30-34 should be withdrawn and these claims should be passed to issuance.

Conclusion

Applicants respectfully submit that pending claims 1-3, 5, 7, 9-26, 28, 30-34 of the present invention are allowable. Applicants respectfully request that these claims be passed to issuance.

Respectfully submitted,

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